

In the United States Court of Federal Claims

No. 15-803V

(Filed under seal July 25, 2023)

(Reissued August 18, 2023)[†]

NOT FOR PUBLICATION

SAMUEL WEBB,

Petitioner,

v.

**SECRETARY OF HEALTH
AND HUMAN SERVICES,**

Respondent.

ORDER

In response to the Court's order denying his motion for relief from judgment, *see* Order (June 8, 2023), ECF No. 153 at 1–4; *Webb v. Sec'y of Health & Hum. Servs.*, 2023 WL 4287500, at *1–3 (Fed. Cl. June 29, 2023), petitioner Samuel Webb has filed a motion for reconsideration, Mot. for Recons. of Rule 60 Order (Pet'r's Mot.), ECF No. 156. The motion does not identify the rule under which relief is sought, but contains a passing reference to Federal Rules of Civil Procedure 59 and 60, upon which our rules are based. *See* Pet'r's Mot. at 2. Although the motion was promptly submitted after the issuance of the order denying relief from judgment, Rule 59 of the Rules of the United States Court of Federal Claims (RCFC 59) cannot be employed for reconsideration under these circumstances, as the entry of judgment against Mr. Webb occurred on July 29, 2021, many more than 28 days before the filing of the latest motion. *See* RCFC 59(b)(1). The Court presumes that Mr. Webb, representing himself in this matter, intended to bring this motion under RCFC 60(b), which allows for relief from an order. As the motion was filed within

[†] As neither party has requested redactions pursuant to Rule 18(b) of Appendix B to the Rules of the United States Court of Federal Claims (Vaccine Rules), the order is released for public access.

one year of the entry of the order denying his motion for relief from judgment, it is timely. *See* RCFC 60(c)(1).

The motion is, however, without merit. The basis for the motion is an alleged mistake in the order denying relief from judgment. Petitioner construes the Court's references to the "second Vaccine Rule 5 conference" sought by Mr. Webb, *see Webb*, 2023 WL 4287500, at *1–2, as mistakenly counting a status conference held on March 20, 2018, as the first Vaccine Rule 5 status conference, Pet'r's Mot. at 3–4. But Mr. Webb is the one who is mistaken. The first, and only, Vaccine Rule 5 status conference in this case was the one held on April 26, 2016. *See* ECF No. 33; *see also Webb v. Sec'y of Health & Hum. Servs.*, 2021 WL 4077553, at *3 (Fed. Cl. Sept. 7, 2021). The Court did not mistakenly believe that a Vaccine Rule 5 conference had been held after Mr. Webb had filed his amended petition, but was instead addressing petitioner's (rejected) argument that he was entitled to another Vaccine Rule 5 conference after amending his petition.

There was no mistake, much less one that would warrant relief under RCFC 60(b)(1). *Cf. Curtis v. United States*, 61 Fed. Cl. 511, 514–16 (2004) (relief granted where court mistakenly believed corporation was still in existence). Accordingly, Mr. Webb's motion, ECF No. 156, is **DENIED**.

IT IS SO ORDERED.

s/ Victor J. Wolski
VICTOR J. WOLSKI
Senior Judge